

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA

CHARLESTON

PAMELA S. HALL,

Plaintiff,

v.

Civil Action No. 2:04-cv-01038

ROST ENTERPRISES, a limited  
partnership; DICK CORPORATION,  
a corporation; SARGENT ELECTRIC  
CORPORATION, a corporation;  
GENIE PORTFOLIO MANAGEMENT, LLC;  
JLG INDUSTRIES, INC., a corporation;  
and SUNBELT RENTALS, a corporation,

Defendants.

MEMORANDUM OPINION AND ORDER

Plaintiff alleges that she may be suffering from Reflex Sympathetic Dystrophy Syndrome ("RSD") a progressive disease of the nervous system, as a result of a workplace injury which occurred on August 27, 2002. (Docket # 97, p. 1.) Defendant Rost Enterprises seeks to compel Plaintiff to undergo an independent medical examination with neurologist Dr. Kuruvilla John on May 19, 2006 from 9:00 a.m. until approximately 12:00 p.m. (Docket # 97.)

Plaintiff filed a response to Defendant's motion on April 27, 2006. (Docket # 108.)<sup>1</sup> Plaintiff objects to an independent medical exam because (1) she has already undergone one independent medical exam; and (2) the appointed time for this second exam falls outside the discovery period. (Docket # 108.)

The timing issue has been mooted by Judge Copenhaver's Order of April 26, 2006, which extended the discovery deadline until June 30, 2006. (Docket # 107.) With respect to the remaining issue, Defendant argues that while Plaintiff's overall physical condition was assessed by a rehabilitation specialist at the request of a co-defendant, a neurological examination is necessary in order to evaluate any neurological deficits arising from her alleged RSD. (Docket # 97.)

The court agrees that Plaintiff's purported ailment places her neurological condition in issue. The court finds good cause for this examination pursuant to Rule 35 of the Federal Rules of Civil Procedure. Accordingly, it is **ORDERED** that Plaintiff shall attend the independent medical examination as scheduled with Dr. Kuruvilla John at 4522 MacCorkle Avenue, Suite 3, Charleston, WV 25304 on May 19, 2006 from 9:00 a.m. until approximately 12:00 p.m. This exam will consist of a neurological evaluation as requested by Defendant.

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<sup>1</sup> The court notes that this response was untimely and reminds Plaintiff to adhere to the deadlines set by the Federal Rules of Civil Procedure in the future.

Defendant's Motion to Compel Independent Neurological Examination of Plaintiff (docket # 97) is **GRANTED**.

The Clerk is instructed to transmit copies of this written opinion and order to counsel of record.

**ENTER** this 28<sup>th</sup> day of April, 2006.

  
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Mary E. Stanley  
United States Magistrate Judge